

CIVIL LIBERTIES AND CIVIL RIGHTS, PART 2

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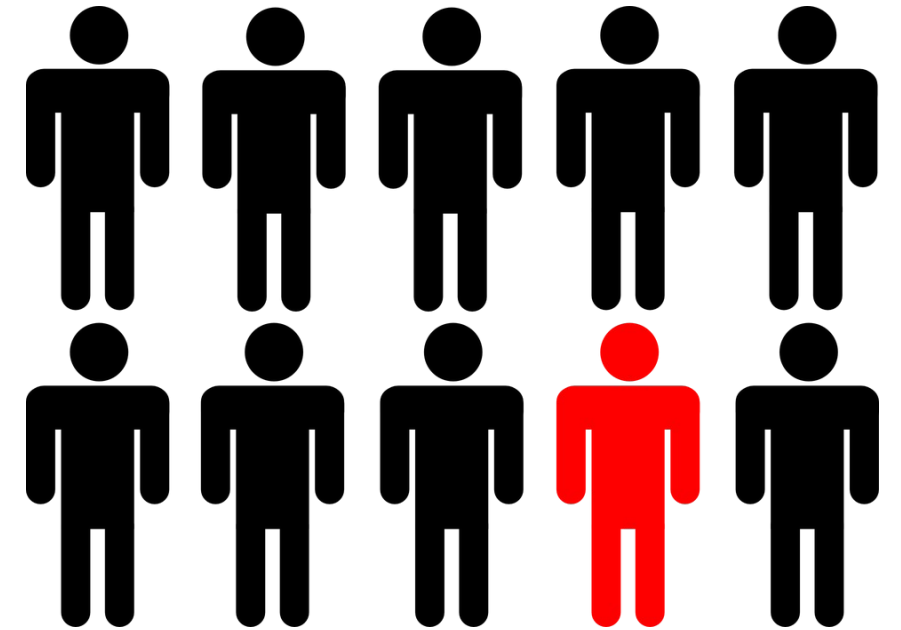
Office Hours (EB-317): Mon and Wed, 2:00–
4:30 p.m.



I enjoyed the start of *The Greatest Showman* when Mommy and Daddy watched the musical on Saturday. Are you excited for a successful second half of the semester?

AGENDA

- Announcement: exam 2
- Civil liberties vs. public safety: overview
- Two case studies
- Devotional and prayer:
God's concern for
individuals and community
(e.g., Psalm 139:13–14; 1
Corinthians 8:11–12; John
3:16)



Individual freedom
vs. public safety

CIVIL LIBERTIES VS. PUBLIC SAFETY

- No exceptions in U.S. Constitution
 - First Amendment: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances” (emphasis added).
- Exceptions elsewhere
 - Denmark’s constitution: “The citizens shall without previous permission be entitled to assemble unarmed. The police shall be entitled to be present at public meetings. Open-air meetings may be prohibited when it is feared that they may constitute a danger



Courtesy of Nations Online Project

CIVIL LIBERTIES VS. PUBLIC SAFETY

We the People of the United States

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the **general Welfare**, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse

CIVIL LIBERTIES VS. PUBLIC SAFETY

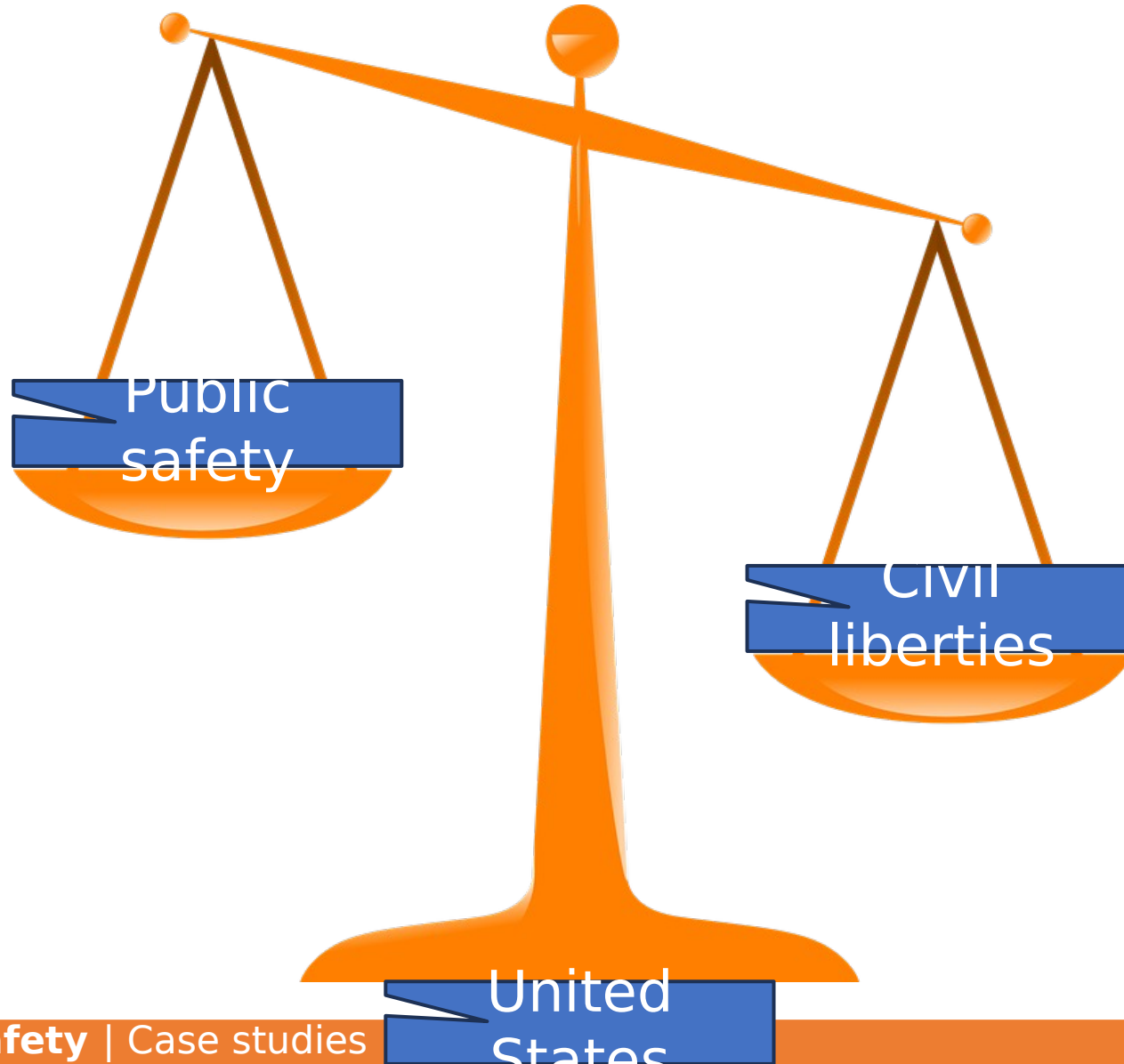
Article I

SECTION. 8.

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and **general Welfare** of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

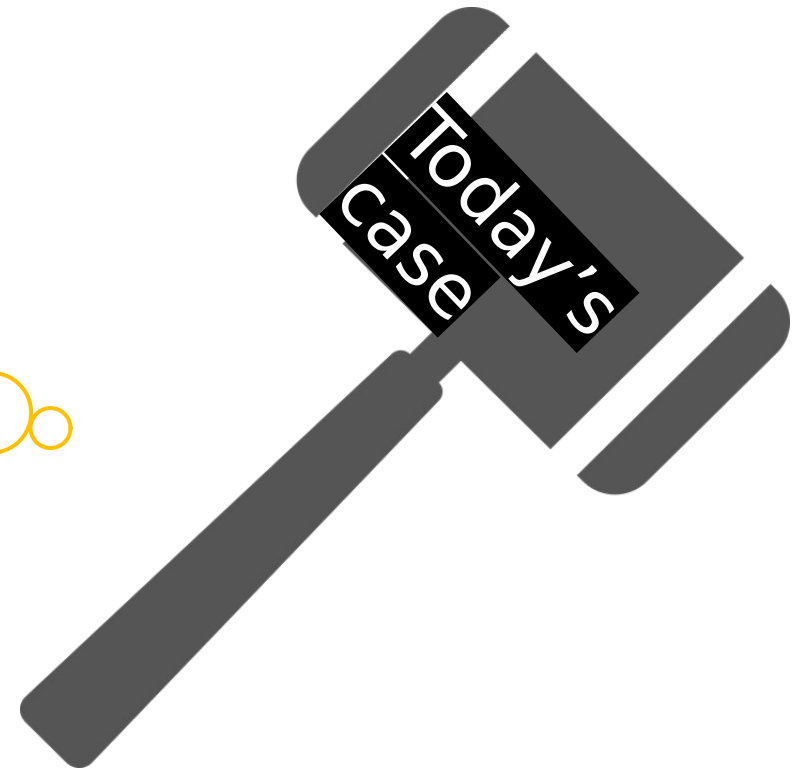
PROPORTIONALITY

which
receives more
weight in the
way that
politics
usually works
in the United
States: civil
liberties or
public safety?



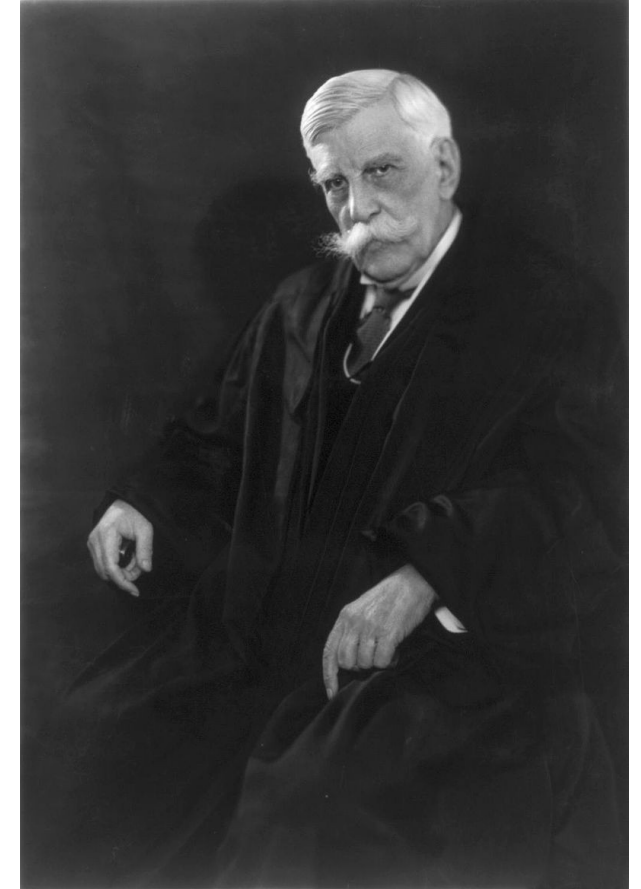
PROPORTIONALITY AND PRECEDENT

Previous,
similar
Supreme
Court
decision



PROPORTIONALITY AND PRECEDENT

- *Schenck v. United States* (1919)
- *Brandenburg v. Ohio* (1969)
- For more on the development of the Supreme Court's free speech decisions, see [Constitutional Law for a Changing America: A Short Course](#)



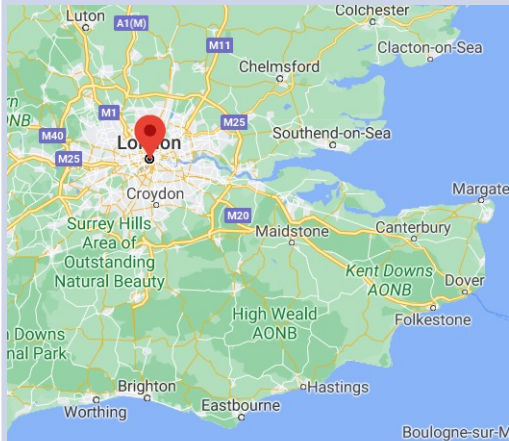
Supreme Court Associate Justice Oliver Wendell Holmes Jr.: “clear and present danger” standard

CASE STUDY 1

Comparative Case Study (Mill's Method of Difference): Should neo-Nazis be allowed to march or rally, especially if there are concerns about violence?

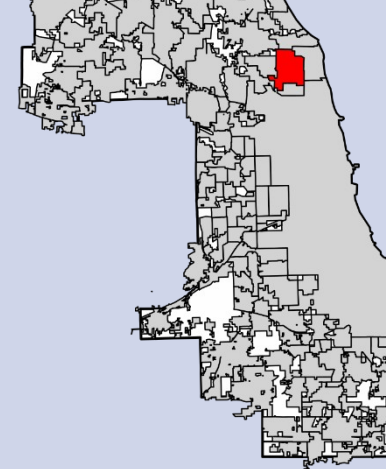
Place

London (Great Britain)



<https://www.google.com/maps/place/London,+UK/@51.528308,-1.2222306,8z/data=!4m5!3m4!1s0x47d8a00baf21de75:0x52963a5add52a99!8m2!3d51.5073509!4d-0.1277583>

Skokie, Illinois (USA)



Skokie, IL (Cook County)

By DemocraticLuntz at English Wikipedia, CC BY-SA 4.0, <https://commons.wikimedia.org/w/index.php?curid=63578301>

Outcome

Why?

ACLU AND NEO-NAZIS: AN ODD COUPLE

- Was it justified for the American Civil Liberties Union—or any group, for that matter—to defend the neo-Nazis in court? Why or why not?

PART THREE

DEFENDING PRINCIPLES

https://www.youtube.com/watch?v=RvH_O-gBi2Q

CASE STUDY 2: COLLEGE CAMPUSES

- Should colleges permit controversial speech on campus, even if public safety is at risk?



<https://www.youtube.com/watch?v=jrjyZ7KJXL8>

QUESTIONS FOR CONSIDERATION

- Was it justified for the American Civil Liberties Union—or any group, for that matter—to defend the neo-Nazis in court? Why or why not?
- Should colleges permit controversial speech on campus, even if public safety is at risk?
- Participation opportunity: Is it preferable to prevent public disorder by banning offensive speech and dangerous public assembly, or should we punish any disorder that occurs after the fact? Why?

PREPARE FOR EXAM

2

Which scenario is most likely to apply to the United States?

A. Public officials worry that a peaceful protest group could attract violent counter-demonstrators, so they deny the peaceful group's request for a protest permit

B. Due to time constraints for government-sanctioned protests, some protest permits are granted, and others are denied

C. Unless a group is advocating for immediate violence and has a substantial following capable of

SUMMING UP AND NEXT UP

- U.S. emphasis on civil liberties (negative rights) over civil rights (positive rights) and public safety, unless the probability of violence is high.
- Role of precedence for proportionality
- Where do you stand on proportionality and limitations on civil liberties with regard to free speech on college campuses or the ability of hateful groups to hold rallies?
- Next: exam review